

REMARKS:

I. Introduction

In the Office Action mailed on August 11, 2005, the Examiner rejected claims 1 to 20. The present amendment cancels no claims, amends claims 1, 3, 5 to 11, and 13 to 20, and adds no new claims. Accordingly, claims 1 to 20 remain pending in this application.

II. Claim Objections

The Examiner objected to claims 3, 6 to 8, 10, 13, 14, 16 to 18 because on informalities. The informalities identified by the Examiner have been corrected. Reconsideration and withdrawal of the objections is requested.

III. Claim Rejections Based on 35 U.S.C. § 103

The Examiner rejected claims 1 to 20 under 35. U.S.C. 103(a) as unpatentable over Venegas Jr. et al (US 5,261,647) in view of Graham (US 6,520,461). The Examiner states that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the metal stanchion portion of Venegas Jr. et al to be constructed of plastic and have the reinforcing rib portions of Graham because that would allow for the foot to be deformed and slidably received in the leg in a friction fit manner." The Examiner also stated that "because the ribs deform, it is inherent that the connection portion has a hardness less than that of the bearing portion."

Venegas Jr. et al. discloses a guardrail having stanchions (12) that are bolted into the ground. Each stanchion (12) consists of a square, flat metal base plate (18) having a plurality of bolt openings for metal bolts (19) that extend into the ground, a metal tubular post (22) vertically extending from the center of the base plate (18), and plastic tubular sheaths (26, 30) provided about the metal tubular post (22). A pair of horizontal rails (14, 16) each have a plurality of apertures that receive the posts (22) of the stanchions (12). The tubular sheaths (26, 30) act as supports and spacers for the horizontal rails (14, 16) as the horizontal rails rest directly on the sheaths (26, 30). Set screws (38) are provided near the top of the posts (22) so that the set screws (38) are located within the top horizontal rail (16) to selectively prevent removal of the top horizontal rail (16) from the post (22).

Graham discloses a leg support (10) for heavy industrial equipment having a tubular plastic housing (11), a tubular plastic foot (12) threaded into the housing (11), and an end cap (13) secured to the bottom of the foot (12). The housing (11) and the foot (12) are each provided with deformable ribs (28, 37) to form tight fits with stainless steel metal sleeves (15, 16). The sleeves (15, 16) provide a smooth aesthetic appearance. Column 5, lines 48, 49. A bolt (14) upwardly extends from the housing (11) to secure the support (10) to the equipment being supported.

In contrast, the claimed invention provides a fall protection device having vertical members with bearing feet at the lower end. The bearing feet are designed to support the vertical members without preventing damage to roofs. For example, the bearing feet cannot be secured to the roof because that would invalidate the warranty for the roof. Each bearing foot is formed with portions having different material hardness so that each portion can better perform its designed function. A bearing portion of the bearing foot engages the roof and supports the device. A connection portion of the bearing foot secures the bearing foot to the vertical member with a friction fit. Thus the bearing portion is advantageously made of a material having a material hardness that is greater than the material hardness of the material forming the connecting portion. Thus, different materials are used to obtain preferred properties for each of the portions.

Initially, applicant respectfully submits that there is no motivation to combine the teachings of Graham with Venegas Jr. et al. The examiner essentially states that it would be obvious to modify the metal stanchion of Venegas Jr. et al. to be constructed of plastic with the deformable ribs of Graham because it could be received in a friction fit manner. That begs the question. There is no teaching or motivation as to why one would want to secure the stanchions in a friction fit manner. Even if there is motivation to combine, the combination does not teach the present invention. Graham teaches securing decorative sleeves (15, 16) to the outside of the support while actually securing the support with a screw (14). Graham does not teach securing a load bearing support with a friction fit. Thus Graham does not reasonably teach to modify the stanchion so that a load bearing portion is secured with a friction fit. However, even if such a teaching is reasonable, the combination still does not teach or suggest the present

invention as claimed. Graham makes no mention of forming the ribs of a material different than the material of the remainder of the housing let alone a material having a different hardness. The examiner states that because the ribs deform, they inherently have a hardness less than the bearing portion. For a feature or property to be inherent, it must absolutely be present. Such is not the case here. The ribs can be the same material and still be deformable due to other properties such as geometry. Hardness is a material property different from deformability. In fact, the most likely scenario is that the Graham housing is molded of a single plastic material having a single material hardness and the ribs are deformable as described due to their size and shape.

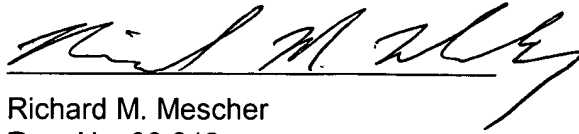
Independent claims 1, 11, and 20, and claims dependent therefrom, are allowable because they each include the limitation of "wherein a first material forming the bearing portion has a first material hardness greater than a second material hardness of a second material forming the connecting portion". No prior art of record reasonably discloses or suggests the present invention as now defined by independent claims 1, 11, 20. Reconsideration and withdrawal of the rejection is requested

III. CONCLUSION

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is found that that the present amendment does not place the application in a condition for allowance, applicant's undersigned attorney requests that the examiner initiate a telephone interview to expedite prosecution of the application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-2326.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard M. Mescher", is written over a horizontal line.

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November 11, 2005